

**PLANNING BOARD**  
**Meeting Minutes**  
**Tuesday,**  
**April 15, 2014**  
**Town Hall, 120 Main Street**  
**7:00 PM**

1 Present: R. Rowen, L. Rudnicki, L. McSherry, J. Simons, D. Kellogg (left meeting at 8:45pm),

2 Absent: M. Colantoni

3 Staff Present: J. Tymon, J. Enright

4  
5 Meeting began at 7:05 pm.

6  
7 **BOND RELEASE**

8 Hitching Post Road: Request for a partial release in the amount of \$45,400 of performance G  
9 bond.

10 D. Kellogg recused himself.

11 J. Tymon: This is a subdivision that was completed in the 1990s. Bond money has been held  
12 because the Staff did not realize there was an Agreement for Judgment in 1994. The Town did  
13 not want to approve the proposed sewer system. The judgment was for the Developer. The  
14 Town was told to accept the sewer system as designed. The DPW has reviewed the plans and  
15 has requested that the Town to retain \$12,000 for as-built plans, street conveyance, and  
16 maintenance. The bond amount held is \$57,400. Including interest the amount is \$82,793.

17 Dave Kellogg, 19 Ciderpress Way, Speaking on behalf of daughter, son-in-law and some  
18 neighbors: There is a serious problem with the sewer system. When their home was purchased  
19 in 1996 they were told it would be connected to town sewer. They had to install a grinding  
20 system because the sewer system had not been setup yet. All the residents have installed these  
21 and the have been difficult to get maintained. Requested more time before the bond is released  
22 so that an attorney could be retained to determine if there is claim against the Developer for  
23 misleading statements made in any of the paperwork.

24 Jon Pallazola, 66 Hitching Post Road: There is an intermittent problem replacing the pumps for  
25 the sewer system. The pumps themselves are approximately \$1,250. It was stated at time of  
26 purchase that within two years there would be a connection to the Town sewer line and these  
27 pumps would not be needed anymore. Upon hearing of this bond we wanted to try to understand  
28 what our rights are.

29 J. Tymon: Read a statement from a letter dated February 4, 1994 from Joel B. Bard, Kopelman  
30 & Paige to the Planning Board re: Patnaude v. North Andover Planning Board Land Court C. A.  
31 No. 137125.

32 B. Thibodeau, DPW Director: Stated he is not familiar with the issue.

33 R. Rowen: It needs to be determined what the exact settlement design of the sewer system was.

34 J. Simons: We need to know whether it is gravity feed system from the houses to the street and  
35 then a pump station from the street or if the homeowners individually had to install pump  
36 systems and then gravity feed from the street.

37 Don Borenstein, Attorney representing the applicant requesting the bond: A release of the bond  
38 funds was requested in November. This was a request for all of the bond funds. Staff is  
39 recommending that \$12,000 is held. The Agreement for Judgment states that the sewer system  
40 should be installed as shown on the original subdivision plan dated August 6, 1987. There was  
41 an as-built plan submitted to the Town in 1997. There is confirmation from Water & Sewer that

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the sewer line is installed in accordance with the original subdivision plan. Provided an as-built plan to the Town Planner.

J. Simons: We need to understand the facts. In two weeks we should have the answers.

R. Rowen: The as-built needs to show not only what was installed, but there needs to be confirmation that what was installed was as per the Judgment criteria.

Walgreens, 800 Turnpike Street: Request for release of a \$10,000 performance G bond.

J. Tymon: Upon a request by the Planning Board several years ago a site visit was conducted to verify the landscaping completed matched what was on the original plan. An as-built has been provided.

J. Simons: Expressed that he was not satisfied with the current landscaping. Would like the owner to either improve the landscaping or submit a letter to the Board stating that they do not wish to make improvements.

R. Rowen: Typically there is language in the Decision stating that if the Town Planner is not satisfied with the landscaping then changes/additions can be requested.

**PUBLIC HEARINGS**

**CONTINUED PUBLIC HEARING; 80 Saile Way**: Application for a Watershed Special Permit. Applicant seeks to continue the use of a cobblestone walkway in the backyard.

J. Tymon: There is no one here to represent Saile Way. This is primarily a planting plan. Reviewed the various required planting areas and limit of regular maintenance area. The existing cobblestone walkway can remain as is.

**MOTION**

A motion was made by L. McSherry to close the public hearing for 80 Saile Way. The motion was seconded by D. Kellogg. The vote was unanimous, 5-0.

A draft Decision was reviewed.

J. Tymon: There was a request by the Board to include photographs in the Decision. A requirement for the applicant to provide photos of current and post conditions has been included.

J. Simons: These should be provided during growing season and for two years. Expand the Findings of Facts to state there will be a recreation of the 25' non-disturb buffer zone. 5b should be strengthened to include through the 2016 growing season.

L. Rudnicki: How much does an as-built plan cost? Is \$1,000 enough for the bond? We want to make sure it gets done.

J. Tymon: It is on the low side.

Board agreed to leave it as \$1,000.

L. McSherry: It should be stated that there should be no further extension or improvement of the existing cobblestone walkway.

**MOTION**

A motion was made by R. Rowen to approve the Watershed Special Permit for 80 Saile Way as amended this evening. The motion was seconded by D. Kellogg. The vote was unanimous, 5-0 in favor.

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84  
85 NEW PUBLIC HEARING; 316 Great Pond Road: Application for Watershed Special Permit:  
86 Applicant seeks to construct an inground pool, patio, shed, fence, and landscaping within the 100  
87 foot Non-Disturbance Zone of the Watershed Protection District.

88 J. Tymon: This is a request for a pool and a patio within 100' of a wetland. There is a  
89 Conservation Restriction on one side of the property.

90 Jack Sullivan, Engineer: The edge of wetland line depicted on the plan is the Conservation  
91 Restriction line for this property. The wetland area is actually protected. The limit of  
92 Conservation area is the wetland line. The Order of Conditions when the house was originally  
93 built imposed a Conservation Restriction to run on the wetland line.

94 J. Tymon: L. Eggleston has reviewed the stormwater management plan. There is a pool  
95 maintenance plan, an infiltration trench, and permeable pavers on the patio. This is still in front  
96 of the Conservation Commission and they may require additional plantings.

97 J. Sullivan: The pool, patio, and drainage mitigation are located outside of the 50' no-structure  
98 zone from the wetlands. This is really the only place to locate the pool in the rear yard. There is a  
99 pervious patio associated with the pool and a retaining wall on the Northerly property line due to  
100 the grade. The wall is to retain land on the neighbor's side. The applicant will see the face of  
101 wall and the neighbor will see the top of the wall. The wall will not exceed 4' high. The  
102 proposed shed is 60 sq. ft. There will be very limited tree removal. There is a crushed stone drip  
103 trench to serve for drainage mitigation. A planting plan is proposed to re-establish the 25' no-  
104 disturb zone to the wetland. This area has previously had the grass line extended right to the  
105 wetland line. This planting plan will re-establish a native buffer zone. There is a hearing  
106 scheduled with the Conservation Commission next week.

107 J. Simons: This is close to the property line. Is it an amicable plan?

108 J Sullivan: The wall is held 6" in from the property line. The neighbors engaged their own  
109 engineer to survey and mark the line. We are in agreement with the line. The property owner  
110 has spoken with the neighbor. The neighbor did not appear at the Conservation Commission and  
111 they are not here tonight. A cartridge system will be used to treat the water. There is not a  
112 backwashing of the system.

113 Board: Requested that the Town Planner ask L. Eggleston if she has any concerns surrounding  
114 the material used to construct the pool and to confirm that she does not have a concern with the  
115 locating the pool right at 50' from the wetland.

116 J. Simons: This should be voted at the next hearing.  
117

118 NEW PUBLIC HEARING; 4 High Street: Application for Site Plan Review. Applicant proposes  
119 the creation of an additional thirty parking spaces along the u-shaped court on High Street.

120 J. Tymon: This is a proposal to add 30 parking spaces to an existing parking/green space area.  
121 The applicant has worked very closely with L. Eggleston. The Conservation Commission has  
122 issued a Notice of Negative Determination. They do not have jurisdiction

123 Seth Zeren, RCG: Provided an overview of the overall site plan and proposed site development  
124 plan. The objective is to bring additional parking to the center of the site for visitors. The work  
125 is primarily limited to the inside of the u-shaped traffic loop and the up against building 6.

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Dave Giangrande, Design Consultants, Inc.: Permeable brick pavers will be used to maintain the character of the area. All but one tree will be maintained in the area. Rain gardens will be utilized for stormwater management and they will have landscaping benefits as well. These rain gardens will be adjacent to the permeable pavers. The permeate pavers will allow water to infiltrate and whatever is remaining will travel down pea stone swales into a sod apron and then into a rain garden. As an absolute failsafe there is a perforated pipe underneath and an overflow that comes up so it will not have an impact on the municipal infrastructure on High Street. There are existing catch basins. The overflow will be tied into one of these structures. The entire project is contained within the property. The existing curb cuts and sidewalks will remain. David Steinbergh, RCG: There is no additional lighting planned along High Street at this time. The area is lit and the existing pattern will be kept. This traffic loop will be one-way. There is some room to stockpile snow along building 37. In the past snow removal has been necessary on both sides of the street to other parts of the site. There is an existing crosswalk to East Mill that will remain.

**MOTION**

A motion was made by R. Rowen to close the public hearing for 4 High Street. The motion was seconded by D. Kellogg. The vote was unanimous, 5-0.

A draft Decision was reviewed.

**MOTION**

A motion was made by R. Rowen to approve the Site Plan Review Special Permit for 4 High Street as amended. The motion was seconded by D. Kellogg. The vote was unanimous, 5-0.

CONTINUED PUBLIC HEARING: Annual Town Meeting Zoning Articles.

**Planning Board Report –April 15, 2014**

The Planning Board makes the recommendations regarding the following Town Meeting warrant articles as required by M.G.L. c.40A, Section 5 and Chapter 2, Section 9 of the Town Code:

**Article 30: Amend Zoning Bylaw – Section 8: Supplementary Regulations by replacing Subsection 8.11: Wind Facilities.** To see if the Town will vote to amend the Town of North Andover Zoning Bylaw, by replacing Section 8.11 Wind Facilities with the following, or to take any other action relative thereto.

**Section 8.11 Wind Facilities**

**8.11.1 Purpose**

(1) The purpose of this bylaw is to provide standards for the placement, design, construction, operation, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such facilities.

(2) The provisions set forth in this bylaw shall take precedence over all other bylaws when

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considering applications related to the construction, operation, and/or repair of land-based wind facilities.

- (3) No wind facilities shall be placed, constructed or modified within the Town without first obtaining approval from the Special Permit Granting Authority (SPGA). The Planning Board shall be the Special Permit Granting Authority for the issuance of a Special Permit to allow the placement, construction and modification of wind facilities within the town. This bylaw is intended to be used in conjunction with other regulations adopted by the Town, and other zoning and general bylaws designed to encourage appropriate land use, environmental protection, preservation of the rural character, and the provision of adequate infrastructure development in North Andover.

8.11.2 Applicability

This section applies to all utility-scale and on-site wind facilities proposed to be constructed after the effective date of this section. This section also pertains to physical modifications to existing wind facilities that materially alter the type, configuration, location or size of such facilities or related equipment.

8.11.3 Definitions

- (1) Critical Electric Infrastructure (CEI): electric utility transmission and distribution infrastructure, including but not limited to substations, transmission towers, transmission and distribution poles, supporting structures, guy-wires, cables, lines and conductors operating at voltages of 13.8 kV and above and associated telecommunications infrastructure. CEI also includes all infrastructure defined by any federal regulatory agency or body as transmission facilities on which faults or disturbances can have a significant adverse impact outside of the local area, and transmission lines and associated equipment generally operated at voltages of 100 kV or higher, and transmission facilities which are deemed critical for nuclear generating facilities.

- (2) Height: The height of a wind facility measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height. This measure is also commonly referred to as the maximum tip height (MTH).

- (3) Wind Facility: All of the equipment, machinery and structures together utilized to convert wind to electricity. This includes, but is not limited to, developer-owned electrical equipment, storage, collection and supply equipment, service and access roads, and one or more wind

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facilities.

- (4) Wind Monitoring or Meteorological Tower: A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a wind facility can be expected to generate.

**8.11.4 Application Procedures**

- (1) The construction and operation of all such proposed wind facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.
- (2) A Special Permit for the construction of wind facilities designed to service the principal use may be granted by the Planning Board in all zoning districts subject to the following requirements and the Special Permit provisions of Section 10.3.
- (3) All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.
- (4) The application shall contain the following documents:
- a) A site plan showing the following information:
- i. Property lines and physical dimensions of the site parcel and adjacent parcels within 500 feet of the site parcel;
  - ii. Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within 500 feet of the site parcel, including distances from the wind facility to each building shown;
  - iii. Location of the proposed tower, foundations, guy anchors, access roads, and associated equipment;
  - iv. Zoning designation for the parcel;
  - v. Location of all existing and proposed roads, both public and private, and including temporary roads or driveways, on the site parcel and adjacent parcels within 500 feet of the site parcel;
  - vi. Location of all existing above ground or overhead gas or electric infrastructure, including Critical Electric Infrastructure, and utility rights of way (ROW) and easements, whether fully cleared of vegetation or only partially cleared, within 500 feet of the site parcel;
  - vii. Existing areas of tree cover, including average height of trees, on the site parcel and any adjacent parcels within a distance, measured from the wind facility foundation, of 3.0 times the MTH;

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- 252           viii.    Location of all wetlands on the parcel;
- 253           ix.     Proposed changes to the landscape of the site, grading, vegetation clearing and
- 254                 planting, exterior lighting (other than FAA lights), screening vegetation or
- 255                 structures;
- 256
- 257           b)    Documentation of the wind facility's manufacturer and model, rotor diameter, tower
- 258                 height, tower type (freestanding or guyed), and foundation type/dimensions;
- 259
- 260           c)    Name, address, phone number and signature of the applicant, as well as all co-
- 261                 applicants or property owners, if any;
- 262
- 263           d)    The name, contact information and signature of any agents representing the applicant;
- 264
- 265           e)    A operations and maintenance plan for the wind facility;
- 266
- 267           f)    A construction plan indicating manufacturer's specifications for the tower materials,
- 268                 construction details and details for footing and guying.
- 269
- 270           g)    A statement that evidences the wind facility's conformance with Section 9.c., listing
- 271                 existing ambient sound levels at the site and maximum projected sound levels from
- 272                 the wind facility;
- 273

274   8.11.5   Waivers

275

276   Documentation requirements may be waived at the discretion of the Planning Board.

277

278   8.11.6   Site Control

279

280   The applicant shall submit documentation of actual or prospective access and control of the

281   project site sufficient to allow for installation and operation of the proposed wind facility.

282   Control shall include the legal authority to prevent the use or construction of any structure for

283   human habitation, or inconsistent or interfering use, within the setback areas.

284

285   8.11.7   Temporary Meteorological Towers (MET Towers)

286

287   A building permit shall be required for stand-alone temporary met towers. A Special Permit

288   shall not be required for MET towers. MET towers shall not be located within setback distance

289   from the sideline of any utility ROW.

290

291   8.11.8   Design Requirements

292

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- 293 (1) No tower inclusive of its appurtenant device(s) shall exceed 150 feet in height nor be  
294 erected nearer to any property line than a distance equal to ten (10) times the blade  
295 diameter, unless the Board determines such restriction to be unnecessary due to the  
296 shape, topography, use or ownership of the abutting property and the Board determines  
297 that a reduction to this setback requirement will not substantially derogate from the intent  
298 or purpose of this subsection.  
299
- 300 (2) Wind facilities shall be lighted only if required by the FAA. Lighting of other parts of the  
301 wind facility, such as appurtenant structures, shall be limited to that required for safety  
302 and operational purposes, and shall be reasonably shielded from abutting properties.  
303 Except as required by the FAA, lighting of the wind facility shall be directed downward  
304 and shall incorporate full cut-off fixtures to reduce light pollution.  
305
- 306 (3) Signs on wind facilities shall comply with the Town's sign by-law. The following signs  
307 shall be required:  
308
- 309 a) Those necessary to identify the owner, provide a 24-hour emergency contact phone  
310 number, and warn of any danger.  
311
- 312 b) Educational signs providing information about the facility and the benefits of  
313 renewable energy.  
314
- 315 (4) Wind facilities shall be erected in such a manner to inhibit unauthorized access, either in  
316 the form of a suitable locked gate and fence surrounding the base of the tower, a non-  
317 climbable section of tower to a height of 10 feet above the ground or other means  
318 determined suitable by the Board.  
319
- 320 (5) Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to  
321 place all developer-owned utility connections from the wind facility underground,  
322 depending on appropriate soil conditions, shape, and topography of the site and any  
323 requirements of the utility provider. Utility owned electrical equipment required for  
324 utility interconnections may be above ground, if required by the utility provider.  
325
- 326 (6) All appurtenant structures to wind facilities shall be subject to applicable regulations  
327 concerning the bulk and height of structures, lot area, setbacks, open space, parking and  
328 building coverage requirements. All such appurtenant structures, including but not  
329 limited to, equipment shelters, storage facilities, transformers, and substations, shall be  
330 architecturally compatible with each other and contained within the wind facility tower  
331 whenever technically and economically feasible. Whenever reasonable, structures should  
332 be shaded from view by vegetation and/or located in an underground vault and joined or  
333 clustered to avoid adverse visual impacts.  
334



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(7) A wind facility may not be sited within:

- a) a distance equal to ten (10) times the blade diameter of the wind facility from buildings, critical infrastructure—including Critical Electric Infrastructure and above-ground natural gas distribution infrastructure—or private or public ways that are not part of the wind facility;
- b) a distance equal to ten (10) times the blade diameter of the wind facility from the nearest existing residential or commercial structure.

(8) Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

**8.11.9 Operations**

- (1) The applicant shall maintain the wind facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, emergency braking (stopping) and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind facility and any access road(s), unless accepted as a public way.
- (2) The operation of any facility authorized by the Board shall not cause interference to neighboring television and radio reception, and, if such occurs any time after installation, the applicant shall, in a timely manner and at his expense, correct the cause of the interference as determined by a qualified engineer/technician.
- (3) The operation of the wind facility shall not exceed thirty (30) dB as measured at the applicant's property lines, and, if such excess noise occurs any time after installation, the applicant shall, in a timely manner and at his expense, correct the cause of the noise as determined by a qualified engineer/technician.
- (4) The applicant shall maintain the facility and all devices authorized by the Board in a manner that ensures its continued performance and safety. It shall be the responsibility of the applicant to annually inform (in writing) the Inspector of Buildings that the tower and all devices are in good operating condition and in continued use.
- (5) The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the police and fire departments, and/or the local emergency services entity designated by the local government, as well as the local electrical utility company. Upon request the applicant shall cooperate with local emergency services in developing an

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emergency response plan. All means of disconnecting the wind facility shall be clearly marked. The applicant or facility owner shall identify a responsible person for public inquiries or complaints throughout the life of the project.

- (6) Wind facilities shall be designed to prevent unauthorized access. For instance, the towers of wind shall be designed and installed so that step bolts or other climbing features are not readily accessible to the public and so that step bolts or other climbing features are not installed below the level of 8 feet above the ground. Electrical equipment shall be locked where possible.

- (7) Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility or otherwise prescribed by applicable laws, regulations, and bylaws, and subject to existing easements, restrictions and conditions of record.

#### 8.11.10 Modifications

All material modifications to a wind facility made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

#### 8.11.11 Removal Requirements

Any wind facility which has reached the end of its useful life or has been abandoned shall be removed. The owner/operator shall physically remove the facility no more than 150 days after the date of discontinued operations. The applicant shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (1) Physical removal of all wind facilities, structures, equipment, security barriers and transmission lines from the site.
- (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (3) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (4) Applicants for utility-scale wind facilities shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal or failure to maintain, in the event the town must maintain or remove the facility and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Authority, but

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in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state- owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

**8.11.12 Abandonment**

Absent notice of a proposed date of decommissioning or written note of extenuating circumstances, the wind facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the applicant fails to remove the facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the facility.

**Planning Board**  
**Favorable      Unfavorable**

**Planning Board Recommendation:**

**Vote Required:      Two-third (2/3) Vote**

**MOTION**

A motion was made by L. Rudnicki to recommend Favorable Action on Article 30. The motion was seconded by L. McSherry. The vote was unanimous, 4-0 (D. Kellogg left meeting prior to vote).

**EXPLANATION:** Last year, a vote of Annual Town Meeting placed a moratorium on the installation of wind energy systems until July 1, 2014. This Article allows wind turbines in all zoning districts, with a height restriction of 150 feet and setback provisions from property lines, structures, and infrastructures.

**Article 31: Amend Zoning Bylaw – Section 8: Supplementary Regulations by replacing Subsection 8.12: Medical Marijuana Treatment Facilities.** To see if the Town will vote to amend the Town of North Andover Zoning Bylaw, by replacing Section 8.12 Medical Marijuana Treatment Center with the following,  
or to take any other action relative thereto.

**Section 8.12 Medical Marijuana Overlay District**

**8.12.1 Establishment:** The Medical Marijuana Overlay District (“MMOD”) is established as an overlay district. The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk and are described below. Within the MMOD, all requirements of

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the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the MDOD may be used either for (1) a Registered Marijuana Dispensary (“RMD”), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.

8.12.2 Purpose: To provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, M.G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.

8.12.3 Boundaries: Boundaries of the MMOD are shown on the Zoning Map and shall include the following parcels as identified on the FY 2014 Assessor’s Zoning Map: Map 77 Parcels 3, 12, 13, 14, & 17.

8.12.4 Definitions: where not expressly defined in the Zoning Bylaws, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, M.G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.

Registered Marijuana Dispensary: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (“MIPs”), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, preparation, sale and distribution of marijuana.

8.12.5 Location:

(1) RMDs may be permitted in the MMOD pursuant to a Special Permit.

(2) RMDs may not be located within 500 feet of the following:

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- 502 a) School, including a public or private elementary, vocational, or secondary  
503 school or a public or private college, junior college, or university;  
504 b) Child Care Facility;  
505 c) Library;  
506 d) Playground;  
507 e) Public Park;  
508 f) Youth center;  
509 g) Public swimming pool;  
510 h) Video arcade facility; or  
511 i) Similar facility in which minors commonly congregate.  
512
- 513 (3) The distance under this section is measured in a straight line from the nearest point  
514 of the property line of the protected uses identified in Section 8.12.5 (2). to the  
515 nearest point of the property line of the proposed RMD.  
516
- 517 (4) The distance requirement may be reduced by twenty-five percent or less, but only  
518 if:  
519
- 520 a) The applicant demonstrates that the RMD would otherwise be effectively  
521 prohibited within the municipality;  
522
- 523 b) The applicant demonstrates that the RMD will employ adequate security  
524 measures to prevent diversion of medical marijuana to minors who are not  
525 qualifying patients pursuant to 105 CMR 725.004  
526
- 527 8.12.6 Procedure:  
528
- 529 (1) The Planning Board shall be the Special Permit Granting Authority (SPGA) for a  
530 RMD special permit.  
531
- 532 (2) The minimum lot size for the location of an RMS within the Overlay District is one  
533 acre.  
534
- 535 (3) Application: In addition to the materials required under Section 10.3 the applicant  
536 shall include:  
537
- 538 a) The name and address of each owner of the facility/operation;  
539
- 540 b) Evidence that the Applicant has site control and the right to use the site for a  
541 facility in the form of a deed or valid purchase and sale agreement, or, in the  
542 case of a lease, a notarized statement from the property owner and a copy of the  
543 lease agreement;

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- 544
- 545 c) A copy of its registration as an RMD from the Massachusetts Department of
- 546 Public Health (“DPH”);
- 547
- 548 d) A detailed floor plan of the premises of the proposed RMD that identifies the
- 549 square footage available and describes the functional areas of the RMD,
- 550 including areas for any preparation of MIPs;
- 551
- 552 e) Detailed site plans that include the following information:
- 553
- 554 i. Compliance with the requirements for parking and loading spaces, for lot
- 555 size, frontage, yards and heights and coverage of buildings, and all other
- 556 provisions of this Bylaw;
- 557
- 558 ii. Convenience and safety of vehicular and pedestrian movement off the site,
- 559 if vehicular and pedestrian traffic off-site can reasonably be expected be
- 560 substantially affected by on-site changes;
- 561
- 562 iii. Adequacy as to the arrangement and the number of parking and loading
- 563 spaces in relation to the proposed use of the premises, including
- 564 designated parking for home delivery vehicle(s), as applicable;
- 565
- 566 iv. Design and appearance of proposed buildings, structures, freestanding
- 567 signs, screening and landscaping; and
- 568
- 569 v. Adequacy of water supply, surface and subsurface drainage and light.
- 570
- 571 vi. A description of the security measures, including employee security
- 572 policies, approved by DPH for the RMD;
- 573
- 574 vii. A copy of the emergency procedures approved by DPH for the RMD;
- 575
- 576 viii. A copy of the policies and procedures for patient or personal caregiver
- 577 home-delivery approved by DPH for the RMD;
- 578
- 579 ix. A copy of the policies and procedures for the transfer, acquisition, or sale
- 580 of marijuana between RMDs approved by DPH;
- 581
- 582 x. A copy of proposed waste disposal procedures; and
- 583
- 584 xi. A description of any waivers from DPH regulations issued for the RMD.
- 585

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- 586 (4) The SPGA shall refer copies of the application to the Building Department, Fire  
587 Department, Police Department, Board of Health, the Conservation Commission,  
588 and the Department of Public Works. These boards/departments shall review the  
589 application and shall submit their written recommendations. Failure to make  
590 recommendations within 35 days of referral of the application shall be deemed lack  
591 of opposition.  
592
- 593 (5) After notice and public hearing and consideration of application materials,  
594 consultant reviews, public comments, and the recommendations of other town  
595 boards and departments, the SPGA may act upon such a permit.  
596
- 597 (6) Special Permit Conditions on RMDs: The SPGA shall impose conditions  
598 reasonably appropriate to improve site design, traffic flow, public safety, protect  
599 water quality, air quality, and significant environmental resources, preserve the  
600 character of the surrounding area and otherwise serve the purpose of this section. In  
601 addition to any specific conditions applicable to the applicant's RMD, the SPGA  
602 shall include the following conditions in any special permit granted under this  
603 Bylaw:  
604
- 605 a) The hours of operation shall be set by the Special Permit Granting Authority,  
606 but in no event shall a facility be open to the public, nor shall any sale or other  
607 distribution of marijuana occur upon the premises or via delivery from the  
608 premises, between the hours of 8:00 p.m. and 8:00 a.m.  
609
- 610 b) No Medical Marijuana Facility shall have a gross floor area of less than 2,500  
611 square feet or in excess of 20,000 square feet.  
612
- 613 c) An RMD shall not be located in buildings that contain any medical doctor  
614 offices or the offices of any other professional practitioner authorized to  
615 prescribe the use of medical marijuana.  
616
- 617 d) No smoking, burning or consumption of any product containing marijuana or  
618 marijuana-related products shall be permitted on the premises of an RMD.  
619
- 620 e) Signage for the RMD shall include the following language: "Registration card  
621 issued by the MA Department of Public Health required." The required text  
622 shall be a minimum of two inches in height.  
623
- 624 f) All aspects of an RMD relative to the acquisition, cultivation, possession,  
625 processing, sales, distribution, dispensing, or administration of marijuana,  
626 products containing marijuana, related supplies, or educational materials must

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take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.

g) Ventilation – all facilities shall be ventilated in such a manner that:

- i. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
- ii. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the MMD or at any adjoining use or property.

h) The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.

i) All Special Permit holders for uses under this section shall provide the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority with the names, phone numbers, mailing and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facilities identified as designated contact persons to whom notice should be made if there are operating problems associated with any use under this section. All such contact information shall be updated as needed to keep it current and accurate.

j) The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.

k) The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

l) The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.

8.12.7 Prohibition Against Nuisances: No use shall be allowed in the RMD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors,



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offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

8.12.8 Annual Reporting: Each RMD permitted under this Bylaw shall, as a condition of its special permit, file an annual report to and appear before the Special Permit Granting Authority and the Town Clerk no later than January 31<sup>st</sup>, providing a copy of all applicable state licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

8.12.9 The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.

8.12.10 Severability: The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

**Planning Board**

**Planning Board Recommendation:**

**Favorable      Unfavorable**

**Vote Required:      Two-third (2/3) Vote**

**MOTION**

A motion was made by L. Rudnicki to recommend Favorable Action on Article 31. The motion was seconded by L. McSherry. The vote was unanimous, 4-0 (D. Kellogg left meeting prior to vote).

**EXPLANATION:** Last year, a vote of Annual Town Meeting placed a moratorium on the locating of Medical Marijuana Treatment Facilities until July 1, 2014. This Article allows Medical Marijuana Treatment Facilities to be located within the same overlay district as the existing Adult Use Zone.

**Article 32: Approve Zoning Map – Medical Marijuana Treatment Facilities Overlay District.** To see if the town will vote to amend the Zoning Map for the Town of North Andover to rezone the following parcels, as identified on the 2014 Assessor's Map: Map 77 Parcels 3, 12, 13, 14 & 17, to allow for the installation and operation of Medical Marijuana Dispensaries, as described in the Zoning Bylaw – Section 8.12 Medical Marijuana Overlay District,

or to take any other action relative thereto.

Map 77 Parcel 13

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711 Northerly 100' +/- by Holt Road  
 712 Easterly 370' +/- by Lot 4  
 713 Southerly 130' +/- by Parcel 3  
 714 Westerly 400' +/- by Clark Street

715  
 716 Map 77 Parcel 14  
 717 Northerly 245' +/- by Holt Road  
 718 Easterly 330' +/- by Lot 3  
 719 Southerly 250' +/- by Parcel 3  
 720 Westerly 370' +/- by Lot 7

721  
 722 Map 77 Parcel 3  
 723 Northerly 410' +/- by Lots 3, 4, and 7  
 724 Easterly 250' +/- by City of Lawrence Airport Commission  
 725 Southerly 465' +/- by City of Lawrence Airport Commission  
 726 Westerly 460' +/- by Clark Street

727  
 728 Map 77 Parcel 12 (3 sided lot)  
 729 Northerly 410' +/- by Parcel 17  
 730 Easterly 270' +/- by Clark Street  
 731 Southerly 285' +/- by City of Lawrence Airport Commission

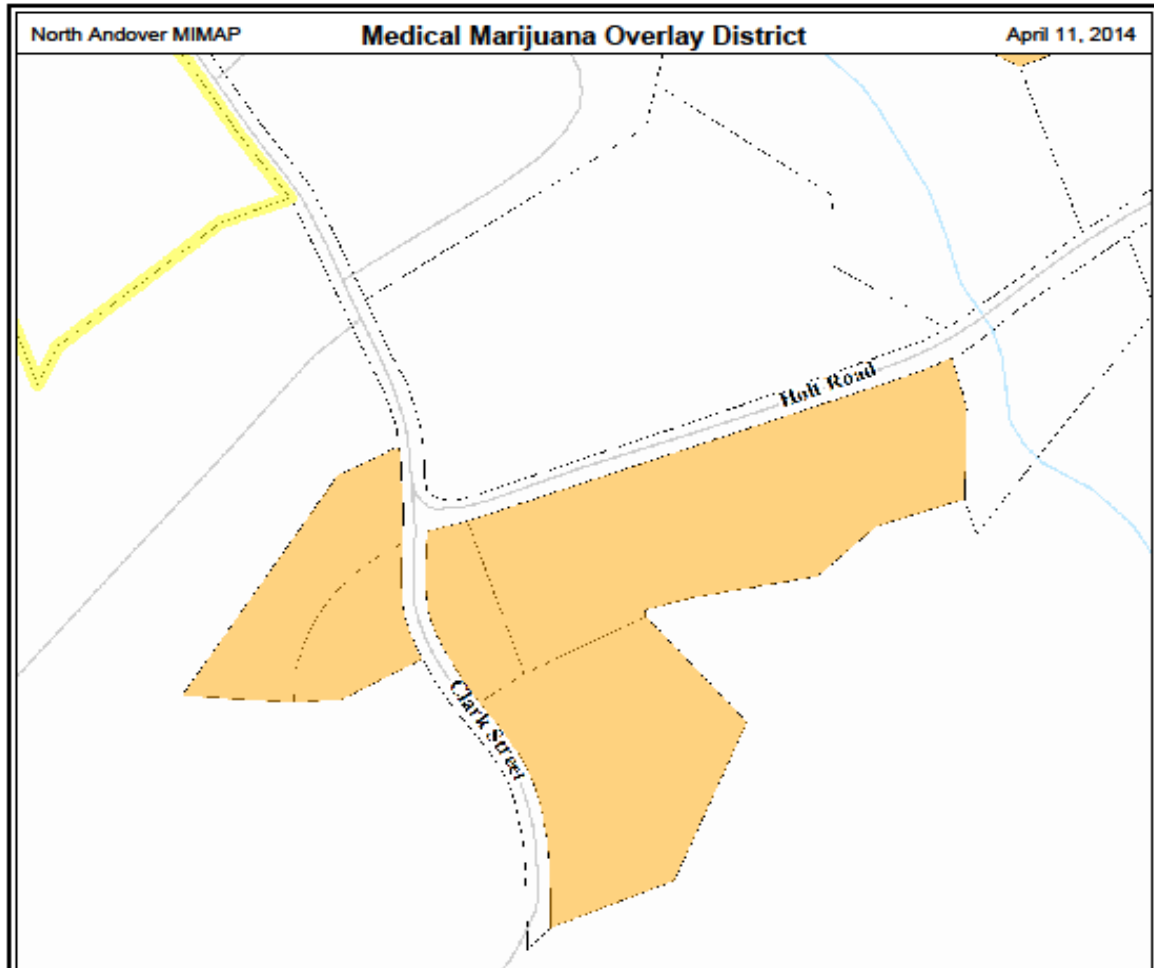
732  
 733 Map 77 Parcel 17  
 734 Northerly 120' +/- by City of Lawrence Airport Commission  
 735 Easterly 210' +/- by Clark Street  
 736 Southerly 410' +/- by Parcel 12  
 737 Westerly 590' +/- by City of Lawrence Airport Commission

738  
 739  
 740 **Planning Board Recommendation:** **Planning Board**  
 741 **Vote Required:** **Two-third (2/3) Vote** **Favorable** **Unfavorable**

742 **MOTION**  
 743 A motion was made by L. Rudnicki to approve the zoning map for medical marijuana and  
 744 recommend Favorable Action on Article 32. The motion was seconded by L. McSherry. The  
 745 vote was unanimous, 4-0 (D. Kellogg left meeting prior to vote).

746

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**EXPLANATION:** This Article changes the Zoning Map to show the Medical Marijuana Treatment Facilities Overlay District as presented in the previous Article.

**Article 33: Amend Zoning Bylaw – Section 18: Downtown Overlay District.** To see if the Town will vote to amend the Town of North Andover Zoning Bylaw, Section 18 – Downtown Overlay District, in the following manner,  
or to take any other action relative thereto.  
Section 18 Downtown Overlay District

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Section 18.2 Permitted Uses: Add the following uses to the list of uses allowed by Special Permit:

22. All uses allowed by right in the underlying zoning districts are allowed.

Add Section 18.7 Waivers:

Where it can be demonstrated to the Planning Board, as the Special Permit Granting Authority, that the following waivers are consistent with one or more of the purposes of this District, as defined in Section 18.0, the Planning Board may grant those waivers:

- a. Waivers of limited dimensional, design, or other criteria set forth in Sections 18.3 through 18.6 of the Downtown Overlay District;
- b. Waivers of other limited dimensional, design, density, or other criteria under the Zoning Bylaw.

Add Section 18.8 Underlying Zoning:

The Downtown Overlay District is an overlay district superimposed on all underlying zoning districts. As required by the Enabling Laws, the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those sites undergoing development pursuant to Section 18. To the extent that there is a conflict between the provisions of the underlying zoning and the provisions of the Downtown Overlay District, the provision of Article 18 shall govern, unless waived by the Planning Board, in accordance with Section 18.7.

**Planning Board**

**Planning Board Recommendation:**

**Favorable      Unfavorable**

**Vote Required:      Two-third (2/3) Vote**

J. Tymon: The draft has been revised to include the allowance of waivers within the Downtown Overlay District by the Planning Board. Additional language has been submitted by John Smolak to specifically define the Planning Board as the Special Permit Granting Authority for the Downtown Overlay District under Section 18.1.

John Smolak, Attorney: The Downtown Overlay currently does not expressly provide for waivers. There are Design Guidelines and Setback Requirements. The language allows the Planning Board flexibility for waivers, but only by Special Permit. The waivers only apply only to Design and Dimensional requirements, not for Use.

J. Simons: Expressed concern with using the word "limited".

J. Smolak: We have provided an edited version of the entire Downtown Overlay District. There are some real inconsistencies with the current site. There are a lot of circumstances within the current language from a design standpoint that are inconsistent with the mill complex. It is

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primary geared to the downtown Main Street area and does not cover, adequately, the West Mill complex.

Seth Zeren, RCG: There are also inconsistencies with height, setbacks, and Floor Area Ratio (FAR). The standards for the Overlay may work for the downtown, but not for a large mill building.

J. Simons: It seems to be ok to have waiver discretion on the design guidelines, but the height and FAR may have to be addressed differently.

S. Zeren: Maybe similar language, but with a specific limit to the maximum height and FAR that could be allowed by Special Permit.

A vote will be taken at the next Planning Board meeting.

**EXPLANATION: This Article allows additional uses within the Downtown Overlay District and waivers as permitted by the Planning Board.**

**DISCUSSIONS**

Street Acceptance: Empire Drive

**MOTION**

A motion was made by L. Rudnicki to recommend favorable action on street acceptance for Empire Drive. The motion was seconded by R. Rowen. The vote was unanimous, 5-0.

Street Acceptance: Woodlea Road

**MOTION**

A motion was made by L. Rudnicki to recommend favorable action on street acceptance for Woodlea Road with the provision that the Conservation Restriction is received. The motion was seconded by D. Kellogg. The vote was unanimous, 5-0.

Street Acceptance: Nutmeg Lane, Thistle Road, Periwinkle Way

**MOTION**

A motion was made by L. Rudnicki to recommend favorable action on street acceptance for Nutmeg Lane, Thistle Road, and Periwinkle Way. The motion was seconded by D. Kellogg. The vote was unanimous, 5-0.

**Planning Board Report Annual Town Meeting 14**

**Planning Board Report –April 15, 2014**

The Planning Board makes the recommendations regarding the following Town Meeting warrant articles as required by M.G.L. c.40A, Section 5 and Chapter 2, Section 9 of the Town Code:

**Article 4: Authorization to Accept Grants of Easements.** To see if the Town will vote to authorize the Board of Selectmen and the School Committee to accept grants of easements for

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access, water, drainage, sewer, roadway and utility purposes on terms and conditions the Board and Committee deem in the best interest of the Town, or to take any other action relative thereto.

**Board of Selectmen**

**Planning Board Recommendation:**

**Favorable      Unfavorable**

**Vote Required:      Majority Vote**

**MOTION**

A motion was made by R. Rowen to recommend Favorable Action on Article 4. The motion was seconded by L. Rudnicki. The vote was unanimous, 4-0 (D. Kellogg left meeting prior to vote).

**Article 5: Authorization to Grant Easements.** To see if the Town will vote to authorize the Board of Selectmen and the School Committee to grant easements for access, water, drainage, sewer, roadway and utility purposes on terms and conditions the Board and Committee deem in the best interest of the Town, or to take any other action relative thereto.

**Board of Selectmen**

**Planning Board Recommendation:**

**Favorable      Unfavorable**

**Vote Required:      Two-third Vote (2/3 Vote)**

**MOTION**

A motion was made by R. Rowen to recommend Favorable Action on Article 5. The motion was seconded by L. Rudnicki. The vote was unanimous, 4-0 (D. Kellogg left meeting prior to vote).

**Article 8: Acceptance of a Public Way – Nutmeg Lane, Periwinkle Way, Thistle Road**

To see if the Town will vote to accept and name Nutmeg Lane, Periwinkle Way and Thistle Road as public ways, as laid out by the Board of Selectmen, and as shown on the following plans: Plan entitled “Street Layout Plan, Nutmeg Lane, North Andover, Massachusetts, Date: December 19, 2007, Scale: 1” = 40’, prepared for North Andover Land Corp.,” by Hayes Engineering, Inc., Wakefield, MA; Plan entitled “Street Layout Plan, Periwinkle Way, North Andover, Massachusetts, Date: December 19, 2007, Scale 1” = 40’, prepared for North Andover Land Corp.,” by Hayes Engineering, Inc., Wakefield, MA and Plan entitled “Street Layout Plan, Thistle Road, North Andover, Massachusetts, Date: December 19, 2007, Scale 1” = 40’, prepared for North Andover Land Corp.,” by Hayes Engineering, Inc., Wakefield, MA, and to accept deeds to the streets and all related easements shown on said plans,

or take any action relative thereto.

**Planning Board**

**Planning Board Recommendation:**

**Favorable      Unfavorable**

**Vote Required:      Majority Vote**

**J. Tymon:** There was some open Conservation Commission work that needed to be completed and it has been done.

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**MOTION**

A motion was made by L. Rudnicki to recommend favorable action on street acceptance for Nutmeg Lane, Thistle Road, and Periwinkle Way. The motion was seconded by D. Kellogg. The vote was unanimous, 5-0.

**Article 9: Acceptance of a Public Way – Empire Drive**

To see if the Town will vote to accept and name Empire Drive as a public way, as laid out by the Board of Selectmen, and as shown as “Empire Drive” on a plan entitled, “Street Layout Plan of Empire Drive Located in No. Andover, Mass. Scale 1” = 40’; Date January 1, 2014, Christiansen & Sergi Professional Engineers Land Surveyors, 160 Summer St. Haverhill, MA 01830” and to accept deeds to all related open space parcels and easements, shown on said Plans filed with the Essex County (Northern District) Registry of Deeds of the Land Court on October 16, 2009 as Plan Number 18083E and on the above-referenced Street Layout Plan,

or take any action relative thereto.

**Planning Board**

**Planning Board Recommendation:**

**Favorable      Unfavorable**

**Vote Required:      Majority Vote**

**J. Tymon:** Empire Drive was a 40B project. The Zoning Board of Appeals has voted to recommend street acceptance.

**MOTION**

A motion was made by L. Rudnicki to recommend favorable action on street acceptance for Empire Drive. The motion was seconded by R. Rowen. The vote was unanimous, 5-0.

**Article 10: Acceptance of a Public Way – Woodlea Road**

To see if the Town will vote to accept and name Woodlea Road as a public way, as laid out by the Board of Selectmen, and as shown as “Woodlea Road” on a plan entitled, “Street Layout Plan, Woodlea Subdivision prepared for Ashwood Corporation, LLC, Scale 1” = 30’; Date April 5, 2013 revised March 24, 2014, by Gateway Consultants” and to accept all related restrictions and easements, shown on the plan entitled “Special Permit and Definitive Plans Woodlea Village” recorded as Plan No. 12873 and Plan No. 13263 at the North Essex Registry of Deeds and on the above referenced Street Layout Plan,

or take any action relative thereto.

**Planning Board**

**Planning Board Recommendation:**

**Favorable      Unfavorable**

**Vote Required:      Majority Vote**

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928 J. Tymon: This was supposed to be before Town Meeting last year but there was an easement  
929 we did not have the proper documentation for. That has been received this year, however; there  
930 is a Conservation Restriction that needs to be approved by the state of MA prior to the Board of  
931 Selectmen street layout meeting scheduled for April 28, 2014.

932 Carmen Corsaro, Attorney for developer: Explained the status of the pending Conservation  
933 Restriction.

934 **MOTION**

935 A motion was made by L. Rudnicki to recommend favorable action on street acceptance for  
936 Woodlea Road with the provision that the approved Conservation Restriction is received. The  
937 motion was seconded by D. Kellogg. The vote was unanimous, 5-0.

938 **Article 23: Appropriation – Capital Improvement Plan for Fiscal Year 2015.** To see if the  
939 Town will vote to fund the Capital Improvement Program as listed under the heading “Board of  
940 Selectmen/Finance Committee/Town Manager Recommendations” and with the language  
941 included,  
942



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<b>FY15 CIP</b>							
<b>Recommendations</b>							
		<u>Board of Selectmen</u>	<u>Other Funding Sources</u>				<u>Authorized to</u>
		<u>Finance Committee</u>	<u>(Grants, Chapter 90)</u>				<u>Borrow under</u>
<u>Line #</u>	<u>Project Description</u>	<u>Town Manager Recommendations</u>	<u>CPA &amp; Spec Rev</u>	<u>Raise &amp; Appropriated</u>	<u>Retained Earnings</u>	<u>Excess bond Proceeds</u>	<u>Chapter 44</u>
1	Roadway Improvements	\$ 840,000	\$ (775,000)			\$ -	\$ 65,000
2	Sidewalks Reconstruction	\$ 75,000					\$ 75,000
3	Franklin School Drainage Repair & Underground Storage Tank Removal	\$ 73,500		\$ (73,500)			\$ -
4	Facilities Master Plan Implementation	\$ 6,377,767					\$ 6,377,767
5	Municipal IT	\$ 50,000					\$ 50,000
6	Building Maintenance	\$ 150,000					\$ 150,000
7	School IT	\$ 106,422					\$ 106,422
8	District Wide Paving	\$ 152,401				\$ (10,343)	\$ 142,058
9	Equipment 6-Wheel Dump Truck	\$ 160,000					\$ 160,000
10	Installation of Fiber Optics	\$ 57,000				\$ (57,000)	\$ -
11	Water & High Street Lights, Intersection, Road Improv	\$ 650,000				\$ (56,172)	\$ 593,828
12	Carpet Replacement (District Wide)	\$ 149,263					\$ 149,263
13	Addition to 170 Sutton Street (Thrifty Shop)	\$ 150,000		\$ (150,000)			\$ -
<b>General Fund Total</b>		<b>\$ 8,991,353</b>	<b>\$ (775,000)</b>	<b>\$ (223,500)</b>	<b>\$ -</b>	<b>\$ (123,516)</b>	<b>\$ 7,869,337</b>
14	Water Treatment Plant Process Control Computer	\$ 600,000	\$ -	\$ -	\$ (600,000)	\$ -	\$ -
<b>Water Enterprise Fund Total</b>		<b>\$ 600,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (600,000)</b>	<b>\$ -</b>	<b>\$ -</b>
16	Sewer Utility Truck	\$ 78,000				\$ (2,317)	\$ 75,683
<b>Sewer Enterprise Fund Total</b>		<b>\$ 78,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (2,317)</b>	<b>\$ 75,683</b>
<b>Total All Funds</b>		<b>\$ 9,669,353</b>	<b>\$ (775,000)</b>	<b>\$ (223,500)</b>	<b>\$ (600,000)</b>	<b>\$ (125,832.67)</b>	<b>\$ 7,945,020</b>

944

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**that to meet this appropriation:**

- (1) The Treasurer with the approval of the Board of Selectmen is authorized to borrow \$7,945,020 under chapter 44 of the Massachusetts General Law or any other enabling authority;
- (2) The appropriations for items 3 and 13 above shall be raised in the tax levy;
- (3) The appropriation for item 14 above shall be funded with Water Enterprise fund retained earnings ;
- (4) a portion of the appropriation for item 8 above in the amount of \$149,263 shall be funded with the transfer from the following project in the amount set forth below, said sum represents excess bond proceeds not needed for the completion of the project:

<u>Amount</u>	<u>Project</u>	<u>Date/Article Number</u>	<u>Date Bonded</u>
\$ 10,343.38	Modular Classrooms-Sch Comm Program	2009 / Art 1A	12/15/2009
<b>\$ 10,343.38</b>			

- (5) a portion of the appropriation for item 10 above in the amount of \$57,000 shall be funded with the transfer from the following project in the amount set forth below, said sum represents excess bond proceeds not needed for the completion of the project:

<u>Amount</u>	<u>Project</u>	<u>Date/Article Number</u>	<u>Date Bonded</u>
\$ 57,000.00	Fire Dept Radio Equipment	2010 / Art 28 Sec 10	2/17/2011
<b>\$ 57,000.00</b>			

- (6) a portion of the appropriation for item 11 above in the amount of \$650,000 shall be partially funded with the transfer from the following project in the amount set forth below, said sum represents excess bond proceeds not needed for the completion of the project:

<u>Amount</u>	<u>Project</u>	<u>Date/Article Number</u>	<u>Date Bonded</u>
\$ 1,106.64	Fire Dept Radio Equipment	2010 / Art 28 Sec 10	2/17/2011
\$ 55,065.75	Library HVAC System	2010 / Art 2	2/17/2011
<b>\$ 56,172.39</b>			

- (7) a portion of the appropriation for item 14 above in the amount of \$78,000 shall be partially funded with the transfer from the following project in the amount set forth below, said sum represents excess bond proceeds not needed for the completion of the project:

<u>Amount</u>	<u>Project</u>	<u>Date/Article Number</u>	<u>Date Bonded</u>
\$ 2,316.90	Sewer Utility Truck 2012	2012 / Art 27 Sec 13	5/17/2012
<b>\$ 2,316.90</b>			

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**Town Manager**

**Favorable      Unfavorable**

Bruce Thibodeau, Director DPW: Provided an explanation for CIP recommendations (numbers 1, 2, 9, 11, 14, and 16).

Curt Bellavance, Community Development Director: Provided an explanation of the Facilities Master Plan Implementation (number 4). The majority of the request is to fund the new Fire Station and design funds for the renovation of the old Fire Station.

J. Simons: Requested that C. Bellavance research line item 13 to determine if it is correct that funding for an addition to 170 Sutton Street (Thrift Shop) should be included in the budget request.

A motion was made by R. Rowen to recommend Favorable Action on the CIP funding line items 1, 2, 4, 9, 11, 14, and 16. The motion was seconded by L. Rudnicki. The vote was unanimous, 4-0 (D. Kellogg left meeting prior to vote).

**Article 24: Report of the Community Preservation Committee – Appropriation From Community Preservation Committee Fund.** To receive the report of the Community Preservation Committee and to see if the Town will vote to raise, borrow, transfer and/or appropriate from the Community Preservation Fund, in accordance with the provisions of Massachusetts General Laws Chapter 44B, a sum of money to be spent under the direction of the Community Preservation Committee,

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**List of Approved Projects – Community Preservation Fund**

<u>Description</u>	<u>Amount</u>	<u>Category</u>
McEvoy Field – Phase 2	\$ 290,000	Open Space - Recreation
Stevens Estate – Stained Glass Window Refurbishment	\$ 25,120	Historical Preservation
Multi-Use Trail – Phase 1	\$ 176,000	Open Space - Recreation
Sargent School Playground	\$ 92,260	Open Space - Recreation
Old Center Preservation Project	\$ 570,000	Open Space / Historical Preservation
Nan's Trail	\$ 68,435	Open Space
Reserve for Affordable Housing	\$ 196,600	Affordable Housing
Administrative Costs	\$ 30,000	Administrative and Operating Expenses
<b>Total for Approved Projects</b>	<b>\$1,448,415</b>	

**Community Preservation Committee**  
**Favorable      Unfavorable**

**Planning Board Recommendation:**  
**Vote Required:      Majority Vote**

J. Simons: Provided an explanation of the funding line items.

**MOTION**

A motion was made by L. Rudnicki to recommend Favorable Action on the CPA Article 24. The motion was seconded by L. McSherry. The vote was unanimous, 4-0 (D. Kellogg left meeting prior to vote).

**EXPLANATION:** The Community Preservation Act (CPA) addresses community issues such as acquisition and preservation of open space, creation and support of affordable housing, acquisition and preservation of historic buildings and landscapes, and creation and support of recreational opportunities. The CPA, adopted at a Special Town Meeting in January 2001, and by the voters at the Town Election in March 2001, levies a 3% surcharge on property taxes with two exemptions: \$100,000 of the value of every residential property, and a complete exemption on property owned and occupied by people who qualify for low-income housing or low- or moderate-income senior housing.

The Community Preservation Committee (CPC) annually recommends how funds should be spent or set aside for future spending among the allowable categories of a) open space; b) historic preservation; c) affordable housing; and d) land for recreational use, with a

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1025 **minimum of 10% required in each of the first three categories. In addition, a maximum of**  
1026 **5% may be spent on administrative expenses by the CPC. Town Meeting may either**  
1027 **approve or reduce the recommended expenditures, but cannot add to them. North Andover**  
1028 **received matching funds equal to \$404,528 or 29.65% in FY13 from the Commonwealth.**  
1029

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**Article 29: Citizen's Petition – Authorization to Acquire Berry Street Property consisting of approximately 26 acres of land and building, including a home built in 1824, an historic cemetery dating back to the mid 1700's, land for conservation and as a location for a critically needed out-country fire station and to fund said acquisition by issuance of Bonds and /or Notes, Appropriations, Grants, including Community Preservation Act funds, and from other sources as may be determined by the Board of Selectmen and in an amount not to exceed two million five hundred thousand dollars (\$2,500,000), without further Town Meeting approval.** To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, lease, gift, grant, eminent domain, or otherwise two parcels of land and buildings thereon, if any, of which, as approximately 8.7 acres of land and buildings recorded as being owned as of February 28, 2014 by North Andover Holdings, LLC, and approximately 17 acres of land and buildings recorded as being owned as of February 28, 2014 by Berry Street Trust, u/d/t dated August 7, 1981 recorded with the Essex North Registry of Deeds (the Registry) at Book 1524, page 97, as amended by Trustee's Certification and First Amendment to Berry Street Trust, dated May 9, 2006, and recorded with the Registry at Book 10177, Page 74 and further amended by Trustee's Certificate and Second Amendment, dated December 16, 2009, and recorded with the Registry at Book 11882, Page 180, all of which is described as follows and to fund said acquisition by issuance of Bonds and/or Notes, Appropriations, Grants, including Community Preservation Act funds, and from other sources, as may be determined by the Board of Selectmen and in an amount not to exceed two million five hundred thousand dollars (\$2,500,000), without further Town Meeting approval.

Property Description

The fee simple estate in and to the land in North Andover, Essex County, Commonwealth of Massachusetts, together with the buildings and improvements thereon, on the northeasterly side of Turnpike Street and Northerly side of Berry Street, and being shown as Lots 1-9 inclusive, Parcel A and Parcel B, and Lot 12 on a plan of land entitled "Definitive Subdivision Plan, Framar Way, off Berry Street, North Andover, MA, Date: August 2011, Prepared for: Margaret Fiore, Goldsmith, Prest & Ringwall, Inc., Engineers and Surveyors", which said plan is recorded with the Essex North District Registry of Deeds as Plan No. 16683.

Together containing 25,702 acres, more or less, and all of said boundaries being shown on said Plan No. 16683 hereby attached in two formats.

Excepting therefrom the following, viz.

- 1) Such rights, if any, as the inhabitants of the town may have in and to certain portions of the premises to be used by them as a burial place, said burial lot containing approximately 7,500 square feet, and being shown on said plan;

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2) Land along Turnpike Street, also known as Salem Turnpike, released to the Middleton and Danvers Railroad by release dated September 20, 1901, recorded with said Registry at Book 191, Page 220; and

3) That portion of the premises taken by the Commonwealth of Massachusetts for highway purpose, along Turnpike Street, said taking being recorded with Registry at Book 689, Page 281, and shown on Plan No. 1638 in said Registry.

For title to the above premises, see deed recorded at Book 1524, Page 103, and at Book 12923, Page 102 in said Registry of Deeds, or to take any other action relative thereto.

**Petition of Robert Ercolini, et al**  
**Favorable      Unfavorable**

**Planning Board Recommendation:**  
**Vote Required:**

This will be voted on at the next Planning Board meeting.

**MEETING MINUTES**

Approval of April 1, 2014 meeting minutes.

**MOTION**

A motion was made by L. Rudnicki to approve the April 1, 2014 meeting minutes. The motion was seconded by R. Rowen. The vote was unanimous, 4-0 (D. Kellogg left meeting prior to vote).

**ADJOURNMENT**

**MOTION**

A motion was made by L. Rudnicki to adjourn the meeting. The motion was seconded by R. Rowen. The vote was unanimous, 4-0 D. Kellogg left meeting prior to vote).

The meeting adjourned at 9:30 pm.

**MEETING MATERIALS:** Agenda, Bond Requests, Hitching Post Road: email dated 4/4/14 from T. Willet to J. Tymon, as-built plan dated January 8, 1997, letter dated February 4, 1994 from Joel B. Bard, Kopelman & Paige to the Planning Board re: Patnaude v. North Andover Planning Board Land Court C. A. No. 137125; Public Hearings: 80 Saile Way: Draft Decision dated 4/15/2014, Existing Conditions Plan with Added Plantings, dated 2/7/14; 316 Great Pond Road: Draft Decision dated 4/15/14, Special Permit – Watershed Permit dated March 10, 2014, Swimming Pool Maintenance Requirements dated 4/11/14, Proposed Site Development Plan 316 Great Pond Road dated 4/15/14, 316 Great Pond Road Plan of Land dated 8/11/86, email dated 4/8/14 from L. Eggleston to J. Tymon; 4 High Street: letter dated 3/14/14 from D. Steinbergh Manager RCG West Mill NA LLC to Town of NA Planning Board, Special Permit-Site Plan

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1111 Review Application, Plan set dated 3/14/14, 3/21/14, 4/7/14, 4/8/14, Conservation Department  
1112 letter re: Negative Determination of Applicability Special Conditions 4 High Street, West Mill  
1113 presentation dated 4/15/14 (8 pages), email dated 4/3/14 from L. Eggleston to Seth Zeren re:  
1114 peer review, Exhibit C section 8.4 waivers, draft Decision dated 4/15/14; Annual Town Meeting  
1115 Zoning Articles: Article XX Amend Section 18 Downtown Overlay District; Discussion Items:  
1116 Street Layout Public Hearing Legal Notice North Andover Board of Selectmen re: Street Layout  
1117 Public Hearing for Woodlea Road, Empire Drive, Nutmeg Lane, Periwinkle Way, and Thistle  
1118 Road; Draft meeting minutes 04/01/14.